

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 1031

Introduced by Senator Hollingsworth

February 22, 2005

An act to add Section 2330.2 to the Family Code, relating to dissolution of marriage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, as amended, Hollingsworth. Dissolution of marriage: family counseling.

Existing law provides for commencement of proceedings for the dissolution of marriage upon the filing of a petition for dissolution. The court is required, if it appears that there is a reasonable possibility of reconciliation, to continue the proceeding for the dissolution of the marriage for a period not to exceed 30 days. Existing law also establishes the family conciliation court, which may be implemented by the superior court in each county, to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies.

This bill would require the parties to a proceeding for dissolution of marriage, if minor children are involved, to complete 4 hours of family counseling, either together or separately, during the 30-day period immediately following the filing of the petition for dissolution of marriage.

The bill would require the court to order parties seeking legal separation or divorce to participate in education classes focusing substantially on the potential impact of separation or divorce on children. The bill would include specified exceptions to that provision. The bill would require the parties to commence the classes within 20 days of filing the petition for legal separation or divorce.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:
- 3 (a) Three out of five divorces involve children.
- 4 (b) Since 1970, one million children per year are victims of
5 divorce.
- 6 (c) Children of divorce are twice as likely to drop out of
7 school, one and one-half times as likely to be out of work and out
8 of school, seven times more likely to be in poverty, and three
9 times more likely to have a child out of wedlock.
- 10 (d) The state bears huge financial burdens dealing with the
11 fallout from divorce in the form of welfare, corrections, and other
12 social programs.
- 13 (e) Fewer than one-third of parental divorces occur because of
14 high conflict, and children benefit from divorce only when they
15 are removed from violent or abusive situations.
- 16 (f) Research shows that divorce often impoverishes women and
17 children. About one-fifth of women who apply for welfare
18 benefits for the first time do so because of divorce or separation,
19 and about one in four of those women are still welfare dependent
20 five years later.
- 21 SEC. 2. Section 2330.2 is added to the Family Code, to read:
- 22 2330.2. (a) In a proceeding for dissolution of marriage, if
23 minor children are involved, the parties shall complete four hours
24 of family counseling, either together or separately, during the
25 30-day period immediately following the filing of the petition for
26 dissolution of marriage.
- 27 (b) (1) *Except as otherwise provided in this section, in any*
28 *proceeding pursuant to this chapter in which there are dependent*
29 *children of the marriage who are younger than 18 years of age*
30 *or in which the wife is pregnant, the court shall order the parties*
31 *seeking legal separation or divorce to participate in education*
32 *classes of their choice, focusing substantially on the potential*
33 *impact of separation or divorce on children.*

1 (2) *The parties shall commence education classes within 20*
2 *days after the filing of the petition for legal separation or*
3 *divorce.*

4 (3) *The education classes shall be provided to parties by one*
5 *or more of the following:*

6 (A) *A marriage and family therapist, social worker,*
7 *professional counselor or psychologist licensed in this state.*

8 (B) *An unlicensed therapist acting under the supervision of a*
9 *person described in subparagraph (A).*

10 (C) *A member of the clergy.*

11 (D) *A person acting under the supervision of a member of the*
12 *clergy.*

13 (4) *The education classes shall commence within 20 days after*
14 *the filing of the petition for legal separation or divorce and shall*
15 *consist of a minimum total of four hours after the filing of the*
16 *petition unless the parties reconcile prior to completion of the*
17 *education classes. Counseling in which the parties have*
18 *participated at any time within six months prior to the filing of*
19 *the petition shall also count toward the hourly requirements set*
20 *forth in this paragraph, if that counseling focused substantially*
21 *on the potential impact on children of separation or divorce. The*
22 *parties may elect to participate in the education classes together*
23 *or separately. Whether the parties participate in the education*
24 *classes together or separately, each party shall participate for a*
25 *total of four hours.*

26 (5) *After a party has successfully completed the education*
27 *classes, the person providing the education classes shall provide*
28 *the participating party with a certificate of completion, letter of*
29 *verification, or some other written documentation indicating*
30 *successful completion of the education classes. The person*
31 *providing education classes may also provide to the party a list*
32 *of resources for marital counseling, child counseling, and other*
33 *support services that may be available in the community to the*
34 *party and the party's children.*

35 (6) *The court may provide indigent parties alternatives as may*
36 *be necessary to enable a party to obtain the education required*
37 *by this section.*

38 (c) *The parties may elect to attend the education classes*
39 *together unless one of the following circumstances exists:*

1 *(1) A protective order has been issued against one of the*
2 *parties.*

3 *(2) There have been allegations of violence within the*
4 *marriage.*

5 *(3) One of the parties prefers to attend the education class*
6 *without his or her spouse.*

7 *(d) The court shall not require the education classes*
8 *prescribed in subdivision (b) under any of the following*
9 *circumstances:*

10 *(1) Service of process was satisfied by publication and the*
11 *whereabouts of one of the parties cannot be determined.*

12 *(2) One of the parties to the marriage at the time of the action*
13 *is serving a sentence in the state prison.*

14 *(3) The youngest child of the parties is within six months of*
15 *attaining 18 years of age.*

16 *(4) One of the parties to the proceeding does not live in this*
17 *state.*

18 *(5) The parties have been living separate and apart for more*
19 *than five years.*

20 *(e) If the petition for legal separation or divorce is not*
21 *dismissed, the costs, if any, associated with the education classes*
22 *required by subdivision (b) shall be paid by the participating*
23 *parties in accordance with each party's ability to pay, as the*
24 *court deems appropriate.*